UNITED
NATIONS

CCPR

International covenant
on civil and
political rights

Distr.
GENERAL

CCPR/C/SR.1178
19 November 1992

ENGLISH
Original: FRENCH

HUMAN RIGHTS COMMITTEE

Forty-sixth session

SUMMARY RECORD OF THE FIRST PART (PUBLIC)* OF THE 1178th MEETING

Held at the Palais des Nations, Geneva,
on Monday, 19 October 1992, at 3 p.m.

Chairman: Mr. POCAR

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* The summary record of the second part (closed) of the meeting appears as document CCPR/C/SR.1178/Add.1.

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GE.92-18005 (E)

The meeting was called to order at 3.15 p.m.

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 40 OF THE COVENANT (agenda item 4)

Initial report of Burundi (CCPR/C/68/Add.2; HRI/CORE/1/Add.16)

At the invitation of the Chairman, Mrs. Samoya Kirura, Mr. Birihanyuma and Mr. Ndikuriyo (Burundi) took places at the Committee table.

1. Mrs. SAMOYA KIRURA (Burundi), Ambassador and Permanent Representative of Burundi to the United Nations Office and the other international organizations at Geneva, introduced the other two members of the delegation, namely Mr. Birihanyuma, President of the Supreme Court, and Mr. Ndikuriyo, Deputy Director of the Centre for the Promotion of Human Rights.

2. The CHAIRMAN said that the Committee had before it two documents which constituted the initial report of Burundi on the implementation of the International Covenant on Civil and Political Rights: one document (CCPR/C/68/Add.2) had been submitted in November 1991, while the second, which had just been submitted to the Centre for Human Rights and had not yet been circulated to members of the Committee, was the core document forming the first part of all reports submitted by States under the various human rights instruments to which they were parties (HRI/CORE/1/Add.16).

3. Mr. BIRIHANYUMA (Burundi) introduced Burundi's initial report, which described the measures taken by the Burundi Government to give effect to the provisions of the International Covenant, ratified on 2 March 1990. The report comprised four parts. The first part was a general presentation of Burundi which enabled human rights to be placed in a historical, political, social and cultural context. The second part set out the general legal framework for the protection of human rights, informed the Committee on the judicial institutions with competence in human rights matters, and reviewed the judicial organs to which victims of possible violations could apply, as well as the administrative authorities that acted in non-contentious matters. Since there could be no human rights without economic and social development, a structure had been created for studying human rights problems within the framework of the Economic and Social Council.

4. The third part described the measures taken by the Burundi Government to protect and promote civil and political rights in accordance with the Covenant. In that connection, it should be pointed out that the instruments mentioned as having been ratified by Burundi were exclusively those relevant to the International Covenant on Civil and Political Rights. There were other international instruments that had been ratified by Burundi.

5. Concerning measures taken in accordance with the provisions of article 9 of the Covenant (CCPR/C/68/Add.2, paras. 16-20), it should be mentioned that the 1981 Constitution, and more particularly the new Constitution of March 1992, in its article 14, guaranteed liberty of person, which could be restricted only by law, and stipulated that anyone deprived of his liberty must be treated with respect for the inherent dignity of the human person. The passages in the report relating to the Constitution should be read with

reference to the new Constitution of March 1992, which accorded a more prominent position to human rights than the previous one had done - 30 articles, as against 11 articles in the 1981 Constitution.

6. With regard to the implementation of article 12 (4) of the Covenant, he wished to correct the figures given in the report (CCPR/C/68/Add.2, para. 27). It was not 15,000 persons who had already returned to Burundi under voluntary repatriation arrangements but 37,629 according to the statistics of the Office of the United Nations High Commissioner for Refugees, and 40,000 according to the authorities of the Burundi Ministry of the Interior, who also counted persons who did not cross through border posts when returning to the country. Lastly, regarding the implementation of article 21 of the Covenant on the right of peaceful assembly (para. 38), the text should be interpreted in the light of the new 1992 legislation on public demonstrations, non-profit-making associations and political parties in Burundi.

7. The fourth part, finally, dealt with progress already made. As diplomatic missions in Burundi could attest, since 1987, when the Third Republic had been established, the Burundi authorities had decided to put an end to the sorry tradition of division, violence and irresponsibility which had previously characterized the country. They had proposed to the Burundi people, without any distinction, a plan for a society based on the positive values of national unity, reconciliation, democracy and promotion of human rights. A long process of dialogue and consultation between rulers and ruled had then been initiated with all strata of the population and had resulted in two fundamental instruments for the rule of democracy and the protection of human rights: firstly, the Charter of National Unity, which had been adopted by an 89 per cent majority in a referendum of 5 February 1991; and, secondly, the Constitution of March 1992, which had won a 90 per cent vote of approval in a referendum. The massive vote of all categories in Burundi in favour of unity was a historic victory, for it signified a rejection of violence, genocide, exclusion, insecurity and exile, or in other words a rejection of any human rights violation.

8. The establishment of a national commission for the return, reception and reintegration of Burundi refugees in January 1991 was an additional token of the determination of the Third Republic authorities to take specific measures in favour of refugees. More than 40,000 persons had already returned to Burundi, and the process was continuing. It should be emphasized that the flow had been maintained even at the height of the attacks of November 1991 and April 1992, thereby defeating one of the purposes of those attacks, namely to frighten the refugees and put an end to the voluntary repatriation movement. The refugees had thus demonstrated to the Hutu group which styled itself the Hutu People's Liberation Party but which was in fact no more than a tribal, terrorist band, that the policy of national unity and reconciliation was not just a hollow exercise but had borne fruit. In June 1992, representatives of the Burundi refugees living in Tanzania, who had not yet come to believe in that unity, had visited their country of origin and had understood the reality of restored unity. Since June 1992, Burundi refugees had been returning from Tanzania in their hundreds. Representatives of Burundi refugees in Rwanda were also expected to make a similar visit. In the meantime, however, more than 1,000 Burundi refugees in Rwanda had decided to return to their homeland in August, September and October 1992.

9. The measures taken in favour of democratization and promotion of human rights extended to the recognition of democracy based on political pluralism. Under a law promulgated in April 1992, political groupings were required to register with the Ministry of the Interior and the Ministry of Local Community Development; seven groupings had already beer authorized as political parties. Legislative and presidential elections were scheduled for March 1993.

10. Despite all those democratic initiatives by the Third Republic, a tribal-terrorist movement had cast a shadow over Burundi in November 1991 and April 1992. The outdated, racist ideology of that movement, the Hutu People's Liberation Party, excluded a multiparty system, since it claimed that there could only be, on the one side, the party of the Hutus and the Twas and, on the other, the party of the Tutsis, political competition being possible only between rival ethnic groups and not between men and women rallying to the positive values of national unity and development with a view to constructing an integrated, democratic society. In addition to carrying out violent attacks, that movement engaged in disinformation aimed at national and international opinion. The Hutu party was planning genocide and, in pursuance of that policy, spent months stirring up the Hutu peasants to believe that the Tutsis intended to exterminate them and that they should strike first. Once the Tutsis had been massacred, the Hutus said it was the army which had orchestrated the operation to justify the large-scale repression of the Hutus and exaggerated the number of victims of that repression tenfold.

11. However, the forces of the Hutu party were now on the run, since all ethnic groups in the population had understood their tribal-terrorist ideology and bloody aims and had valiantly resisted their aggressions in November 1991 and April 1992.

12. Bearing in mind its level of social and cultural development, Burundi still had many obstacles to overcome on the path to democracy, social justice and all-round development. However, the Government and people of Burundi would spare no effort to attain those noble ideals.

13. The CHAIRMAN invited members of the Committee who so wished to make comments on the Burundi report or put questions to the Burundi delegation.

14. Mr. NDIAYE thanked the Government of Burundi for submitting its initial report in accordance with the Committee's guidelines, one year after its accession to the Covenant. Unfortunately, the report was too succinct to give a precise idea of the human rights situation in the country. It was not enough to cite constitutional and legislative provisions to illustrate a situation, and more specific information should have been given about actual practice. He hoped that the delegation's replies to members' questions would serve to supplement the report.

15. His first question concerned article 2, in respect of which the report stated that "Burundi respects and ensures to all ... the rights recognized in the International Covenant on Civil and Political Rights ..." (CCPR/C/68/Add.2, para. 3): it should be specified which rights were involved. With regard to article 3, it was stated that "Burundi ensures the equal right of men and women to the enjoyment of all civil and political rights" (para. 8), but the report did not say how or to what extent. In view

of the social, economic and cultural constraints which all countries experienced in that area, it could be imagined that Burundi also had difficulties in that regard.

16. With respect to article 4, he would like to know whether the Secretary-General had been notified of the proclamation of the state of emergency and, if so, what derogations there had been from the Covenant. The report gave no example to illustrate what was said in paragraph 13 about the implementation of article 7, when it could, for instance, have mentioned the instructions given to persons liable to violate the provisions of the Covenant. Was there any case law in that area? That was a question which particularly concerned him, since members of the Committee had received information, particularly from non-governmental organizations, which seemed to concur in their serious and persistent accusations concerning Burundi, where torture was said to remain a sad reality among gendarmerie squads. The persons responsible reportedly went unpunished, despite the fact that the Burundi Penal Code laid down penalties for such conduct.

17. With regard to the right to liberty and security of person guaranteed in article 9, the report did not say what happened in the event of a violation of that right. It was stated in paragraph 18 that anyone arrested or detained on a criminal charge must be brought "promptly" before a judge, but it was not specified how long a period was involved.

18. With regard to liberty of movement, as provided for in article 12, the provisions of the law should have been quoted. Concerning article 13, which related to aliens, details should have been given of the conditions of admission and sojourn and the conditions for expulsion laid down by the law on the immigration and residence of aliens (para. 28).

19. In connection with article 14, he referred to the accusations made against Burundi, particularly by Amnesty International, which had reported that there were many cases of improper or prolonged pre-trial detention. It was alleged that the person concerned was not informed of the reasons for his arrest; that policemen did not state their identity and acted without a proper mandate; that the Criminal Investigation Department had carried out arbitrary arrests, particularly in November 1991 and March 1992; and that there had been serious breaches of the Standard Minimum Rules for the Treatment of Prisoners. It was also reported that the detention centres were overcrowded, particularly at Bujumbura, and he inquired about the reasons for that state of affairs.

20. With regard to article 16, the references were imprecise (para. 34). In connection with article 18 (para. 36), reference was made to a law whose content was not specified. As for article 20 (para. 37), the measures taken to implement its various provisions should be indicated. In the commentary on article 24 (para. 40), the report merely stated that Burundi had ratified and accepted the Convention on the Rights of the Child, but it was the application of the International Covenant on Civil and Political Rights that interested the Committee.

21. With regard to article 25 (para. 41), he inquired how many political parties and trade unions there were in Burundi and whether it was possible to

present independent candidatures. With respect to article 27, he asked whether the Charter of National Unity had achieved its aim of integrating all citizens into the country's political life.

22. In general, he noted that, while Burundi had undeniably made progress on human rights in recent years, there were continuing reports of massive violations of those rights, particularly in connection with the events of November 1991 and the political trials of July 1992. Another source of concern was the Burundi army, which was dominated by the ruling Tutsi minority. What measures were taken to enable the Hutus, who formed the majority ethnic group, to join the army despite the obstacles they faced? How many Hutus were there at the Higher Military Academy in Bujumbura? The Government had been called upon to reform the Burundi gendarmerie, which was regarded as a formidable force, particularly because of the contempt with which it treated the Hutus, and to elucidate the tragic events that had occurred in the country by establishing the individual responsibility of particular members of the armed forces. He inquired how many soldiers or gendarmes had been questioned in connection with the abuses committed in November and December 1991.

23. The other major issue which arose in connection with Burundi was the refugee question. He would accept the figure of 40,000 given by the delegation. However, the Government was criticized for carrying out a policy of voluntary repatriation which contravened article 33 of the Geneva Convention relating to the Status of Refugees and article 18 of the Covenant. There were reported cases of people who had agreed to be repatriated after receiving assurances of their safety, but who had then been thrown into prison, had had to go into exile or had disappeared. Why did Burundi not envisage the promulgation of a general amnesty law? Lastly, what was the Government's position with regard to the organization of a round-table, as proposed by certain Burundi nationals living abroad?

24. At the present time, Burundi had no less than 500 political prisoners. He inquired whether they had been tried, what steps the Government had taken to ensure respect for the right to a defence which had allegedly been violated, particularly during the recent trial of members of a political party, and, lastly, what the authorities' aim had been in imposing death sentences which had sometimes been interpreted as discriminatory verdicts against a particular ethnic group.

25. Under article 178 of the new Constitution, some opposition parties could apparently not put forward candidates for election as directors of communal organs. That provision would tend to institutionalize a kind of ethnic segregation to which the Government nevertheless claimed to be opposed. Were the authorities planning to remove that obstacle to the exercise of civil and political rights, which was unacceptable in a pluralist democracy? He would also welcome information concerning the proposed new law on the media.

26. Lastly, it seemed that some associations showing a desire to take an independent stance vis-à-vis the authorities sometimes waited a long time before receiving official authorization. That was reportedly the case, in particular, of the Rural Press Association, which had been awaiting authorization for 15 months. If that practice did exist in Burundi, were the

authorities planning to put an end to it and, if so, how soon? Early in the year, the Chief of State had declared that he would associate the opposition parties with the transition period with a view to the forthcoming legislative and presidential elections, but the Prime Minister had recently contradicted that statement at a press conference. What exactly was the truth of the matter?

27. In conclusion, he stressed the Committee's desire not to act as a tribunal but to engage in a genuine dialogue with the Burundi authorities so as to help them to make the necessary reforms. He added that the Committee was a body composed of independent experts that was responsible for overseeing the full implementation of the provisions of the Covenant, irrespective of any ideological considerations. Of course, the reports to which he had just referred were not gospel, and he would be happy if the Burundi delegation could enlighten the Committee on the exact situation regarding all those matters.

28. Mrs. SAMOYA KIRURA (Burundi) explained that the core document (HRI/CORE/1/Add.16) just submitted by Burundi contained an update of the initial report (CCPR/C/68/Add.2) which it had submitted in November 1991. It was therefore a new and updated report which replaced the previous report. She would like that point to be clear to all members of the Committee.

29. Mrs. KLEIN (Centre for Human Rights) said that, on 8 October 1992, the secretariat had received, through the Mission of Burundi to the United Nations, a core document drawn up in accordance with the consolidated guidelines (HRI/1991/1) which contained an update of the initial report of Burundi submitted in November 1991. That document (HRI/CORE/1/Add.16) had been received too late to be circulated in time to all members of the Committee in all the working languages; however, copies of the original French text would be distributed in the course of the current meeting.

30. The CHAIRMAN said he believed that some members of the Committee had a copy of document HRI/CORE/1/Add.16, or more accurately its first part; the other part, which according to the Burundi delegation constituted an updated version of the initial report of November 1991 (CCPR/C/68/Add.2), had not yet been distributed. In that connection, he noted that a report submitted to the Centre for Human Rights only a few days before the opening of a session of the Committee could not, for technical reasons, be circulated in time to be considered at that session. It was therefore the initial report (CCPR/C/68/Add.2) submitted by Burundi in November 1991 that the Committee was called upon to consider. However, the Burundi delegation was at liberty to indicate the new elements contained in document HRI/CORE/1/Add.16, and the Committee would take account of that oral updating in its considerations and conclusions.

31. Lastly, he emphasized that Burundi was one of only a very few countries to have submitted a core document drafted in accordance with the consolidated guidelines (HRI/1991/1). He thanked the Burundi authorities, who had thereby demonstrated their desire to cooperate with the Committee, for doing so.

32. Mr. EL SHAFEI, welcoming the Burundi delegation, said it was unfortunate that the update of the initial report (CCPR/C/68/Add.2) had reached the Centre for Human Rights at such a late stage, but on the other hand he, like the Chairman, was pleased that the Burundi authorities had drawn up a core document in accordance with the consolidated guidelines which would certainly give members a better knowledge of the human rights situation in Burundi and would contribute to the dialogue between the authorities of that country and the various United Nations treaty bodies responsible for monitoring the implementation of international human rights instruments.

33. The initial report of November 1991 (CCPR/C/68/Add.2) was rather laconic but nevertheless provided some very precise information, particularly in its Part Two, on developments in the political and social situation in Burundi and the difficulties which had adversely affected respect for and promotion of human rights in that country.

34. With regard to the Charter of National Unity, which was dealt with at length in document CCPR/C/68/Add.2, he asked what was that Charter's legal status and whether it covered all the human rights embodied in the Covenant. The Charter was doubtless the culmination of the efforts made by the Government to reconcile and harmonize the different components of Burundi society. Unfortunately, those efforts had been thwarted by the events of 1991, which had been accompanied by very serious violence. The current Government was clearly trying to rectify the errors of its predecessors, but there was no escaping the fact that the repressive measures taken by the police forces and the army during the events of 1991 had claimed fresh victims and that the number of cases of torture and disappearance had increased. He was extremely concerned over the events of November 1991 and, in particular, wondered about their possible implications for the authorities' commitment to respect and promote human rights, especially the rights proclaimed in the Covenant.

35. He inquired whether investigations had been conducted to establish responsibility in cases of disappearance and torture and to unmask the culprits, and whether measures had been taken for the immediate release of persons subjected to questioning, who had often had nothing to do with the events. There were reports from various sources of torture and ill-treatment being inflicted on detainees. Some detainees were even said to have confessed in order to avoid further torture. It also seemed that there was a new draft Code of Penal Procedure. He would welcome information on that matter and, in particular, would like to know whether the draft contained specific and clear guarantees against torture and whether it provided for investigations to be conducted into allegations of torture in prisons and other places of detention.

36. With regard to the question of refugees, it seemed that a number of bodies had been created as part of the ongoing process of political reform in the country, particularly a National Security Council and a commission for the return, reception and reintegration of refugees. What role had those bodies played during the crisis that had occurred in Burundi in late 1991? Had they functioned and had they been effective? Had they cooperated with the

authorities in their efforts to restore order? It seemed that repatriated refugees were the victims of intimidation measures and ill-treatment. He would like further clarifications on that disturbing question.

37. Lastly, it appeared that the authorities had allowed various non-governmental organizations to be established in Burundi. Had those organizations cooperated with the authorities during the 1991 crisis? He concluded by paying a tribute to one of them, the Burundi League for Human Rights "ITEKA", which had gathered information nationwide and published a report denouncing flagrant human rights violations in Burundi. That showed that local non-governmental organizations could help to relieve the sufferings of their people, provided that they were given the means to do so and were assisted in performing their role.

38. Miss CHANET extended a warm welcome to the Burundi delegation and hailed the initiative taken by the Government in including many articles of the Covenant in the new Constitution of March 1992. She would, however, like to know why a number of the Covenant's provisions did not appear in the new Constitution, particularly the provisions of article 14 concerning free legal aid for persons who could not afford to pay for defence counsel, and those of article 8. Moreover, the rights set out in article 4 of the Covenant did not seem to be included among the fundamental rights embodied in the Constitution. In particular, article 79 of the Constitution listed the powers of the President in the event that a state of emergency was proclaimed, but did not incorporate the limitations provided for in article 4 of the Covenant. She asked the Burundi delegation for clarifications as to how the articles of the Covenant incorporated in the Constitution had been chosen and on the situation regarding to the provisions of article 4 of the Covenant.

39. She would also like to know what was the hierarchy of legal norms in Burundi, and particularly what happened when provisions of the Constitution were in conflict with an internal law. That was no merely theoretical question, since articles 9 and 14 of the Covenant, while partly reproduced in the Constitution, still had no equivalent in the Penal Code and the Code of Penal Procedure. In that connection, further information regarding the work in progress with a view to amending those two Codes would be welcome.

40. The documents available to her, namely document CCPR/C/68/Add.2 and the first part of document HRI/CORE/1/Add.16, did not give her a precise idea of the judicial organization in Burundi. She asked whether the principle of the irremovability of judges existed in that country and what was the role played by commissions. Those bodies seemed to have powers identical to those of judges, particularly the Judicial Supervisory Commission, the Mandi Commission, etc. She asked the Burundi delegation to clarify the exact competence of those commissions.

41. With regard to the implementation of article 3 of the Covenant, she agreed with Mr. Ndiaye that, given the economic and sociological constraints, it was not enough merely to proclaim equality between men and women. She would like to have further details on the situation in that area.

42. In connection with article 6 of the Covenant, she would like to know in which cases the death sentence could be imposed under the Penal Code. She

also asked why, following the bloody events of 1991, virtually no one in the law enforcement forces had been brought to court, whereas many civilians had been put on trial for crimes and offences committed at that time. She would also like to have further information and to hear the reaction of the Burundi delegation on the cases of torture and ill-treatment allegedly inflicted by members of the Bujumbura gendarmerie.

43. Concerning article 9 of the Covenant, were persons placed in police custody informed of the reasons for such custody and its duration, and was it true that no limits or conditions were established in that area? What were the legal conditions and the conditions for the application of police custody and pre-trial detention?

44. With respect to article 12 of the Covenant, it was stated in the Burundi report (CCPR/C/68/Add.2) that the laws on the movement of persons were very clear. Perhaps the Committee could be informed of those laws.

45. She also asked whether the Burundi delegation could indicate in what conditions and in which cases the Decree-Law of 31 December 1991 making it obligatory to request prior authorization to hold a public demonstration was applied.

46. The Constitution laid down strict regulations which made it very difficult to establish political parties. Whereas numerous and highly precise criteria for prohibition were laid down elsewhere in the Constitution, its article 56 set forth very vague criteria. That was all the more disturbing in that the conditions in which parties were formed and exercised their activities were determined by law (art. 60 of the Constitution), thereby giving rise to limitations in addition to those enunciated in articles 55, 56 and 57. How could the application of those articles and the law on parties be reconciled with articles 19, 22 and 25 of the Covenant? In view of the difficulties mentioned, how could citizens genuinely participate in public life?

47. Mr. WENNERGREN congratulated the Burundi delegation on its report (CCPR/C/68/Add.2), a short but well-written document which constituted a good starting-point for a dialogue with the Committee.

48. He drew attention to article 10 of the Constitution, which provided that the International Covenant on Civil and Political Rights formed an integral part of the Constitution. It was therefore not very important that a particular article of the Covenant should not be specifically mentioned in the Constitution. However, it was necessary to know exactly what was the status of the Covenant in the legal system. There was also a need to know how the Charter of National Unity, which seemed to play an important role in political life in Burundi, reconciled the interests of Hutus and Tutsis.

49. He noted that there was a kind of ombudsman's office in Burundi. Did it receive complaints from individuals, conduct investigations and take steps to promote the rights of the individual?

50. With regard to the death penalty, he asked how its application could be reconciled with article 11 of the Constitution, according to which the human person was sacred and inviolable and the State had an absolute obligation to respect and protect it. Was it planned to abolish that penalty?

51. There were numerous reports of disappearances, torture and extrajudicial executions. In particular, the Committee had information provided by the Special Rapporteur on torture and the Special Rapporteur on summary or arbitrary executions. He would like to hear the Burundi delegation's comments on the case of Mr. Isidore Ciiza, whose wife and children had been killed by soldiers looking for him and who had subsequently "disappeared" after being tortured. It was disturbing to note that everywhere in the world children were the victims of violence. He asked what the Government intended to do to control the police and armed forces and prevent them from acting arbitrarily and savagely as they had done during the events of 1991 and 1992, and to restore confidence in the Burundi legal system. What sanctions would be taken against persons responsible for the violence?

52. According to the Burundi League for Human Rights, the Mandi Commission and the national commission for the return, reception and reintegration of refugees had been authorized to take decisions - in regard to detention, for instance - which were not open to appeal. He asked how such a practice could be reconciled with article 9 of the Covenant.

53. He further inquired in what places and in what conditions prisoners were held and whether the United Nations Standard Minimum Rules on the Treatment of Prisoners had been published and brought to the attention of prison staff.

54. Article 21 of the Constitution dealt with respect for privacy and exceptions to that principle. What did the Penal Code have to say on that subject and in what circumstances did it allow measures to be taken to restrict the right to protection of privacy?

55. According to the Burundi League for Human Rights, there was no law on freedom of the press. Was it intended to fill that gap?

56. Article 3 of the Constitution provided that "All Burundians over the age of 18 who enjoy their civil and political rights are entitled to vote under the conditions determined by law". He asked what was meant by the expression "who enjoy their civil and political rights" and to what restrictions it gave rise as far as the right to vote was concerned. Article 29 of the Constitution provided that "the right to participate in the direction and management of State affairs is subject to the legal conditions, particularly regarding age and capacity". What was meant by the term "capacity" in that context? Did it refer to mental capacity? Questions arose as to the compatibility of the restrictions imposed by articles 3 and 29 of the Constitution with article 25 of the Covenant.

57. Mr. MAVROMMATIS asked the Deputy Director of the Centre for the Promotion of Human Rights in Burundi what the functions of that Centre were and whether it was a Government body or independent. He noted that the late submission of

Burundi's most recent report, which had been distributed in the course of the meeting, had created some confusion. It would have been better not to distribute it and to base the discussion solely on previous documents.

58. Burundi had experienced many tragic events in the past. The efforts at national reconciliation and Burundi's accession to various international instruments were commendable, but that was not enough. According to reliable sources, human rights continued to be violated in the wake of the disturbances of April 1992. Information should be given not only on the laws enacted but also on the practical measures, decisions and mechanisms adopted to protect human rights and on the difficulties encountered. He hoped that the Burundi delegation would give further details of the de jure and de facto restrictions on the enjoyment of the rights proclaimed in the Covenant.

59. He would like to have more information on the relationship between the Constitution and the Charter of National Unity. Was that Charter still in force? According to the latter's provisions, even the Constitution could not run counter to the Charter. He inquired about the status of the new Constitution in the legal system. He would also like to know what was the situation regarding the former Constitution, to which reference continued to be made.

60. The Committee needed a lot more information on the state of emergency and the measures taken under it. Had there been any laws or regulations permitting derogations from particular provisions of the Covenant? Had new offences been defined and internment measures provided for? Had those matters come within the competence of the ordinary courts, the military courts or special courts?

61. In the light of the statement in the latest report that no death sentence had been imposed under the Third Republic, it was to be hoped that the death penalty would be abolished. If a military code existed, did it contain any provisions on the subject?

62. In conclusion, he inquired how the independence of the judiciary was ensured.

63. Mr. MÜLLERSON welcomed the recent adoption of the new Constitution, 30 articles of which were devoted exclusively to human rights. He emphasized the importance of article 10 of the Constitution, according to which international treaties on human rights, and in particular the International Covenants on Human Rights, formed an integral part of the Constitution. He also welcomed Burundi's ratification of various important international instruments relating to human rights. However, he found it difficult to form a concrete idea of the human rights situation in Burundi since the report in document CCPR/C/68/Add.2 did not contain much information on the practical implementation of the Covenant, and it would appear that the new report just distributed did not do so either.

64. It was impossible to address all those issues in the absence of pre-existing written information. He would like more details on the events of November 1991 following which arbitrary executions had occurred. What had been the cause of those events? Reports by non-governmental organizations,

both international and local, spoke of extrajudicial executions of civilians in places of detention. He would also like to know more about the events of April 1992.

65. He further inquired whether there was a law regulating the use of force, and in particular firearms, by the police. There had been various reports, particularly from non-governmental organizations, describing torture: one young student was said to have died as a result of the torture inflicted on him in a place of detention. Some reports also referred to arbitrary arrests. Some people had their detention extended without being brought before the courts.

66. With regard to the freedom of demonstration and assembly, he asked what possible restrictions might be imposed under a law of 31 December 1991. Was it true, as stated in a report by one non-governmental organization, that the Mayor of Bujumbura had decreed that demonstrations could take place only on Sunday? What was the Burundi delegation's reaction to the allegation that the Minister of Rural Development had ordered his staff to participate in the celebration of the fifth anniversary of the Third Republic on 3 September 1992?

67. He further asked what was the current status of the Charter of National Unity and what was its relationship with the new Constitution.

68. According to paragraph 41 of document CCPR/C/68/Add.2, every citizen had the right to take part in the conduct of State affairs. Such a provision could only be welcomed, but it should be indicated how it was applied. How many parties were there in Burundi? Apart from the new Constitution, were there special laws that regulated participation in the conduct of State affairs and in elections and, if so, what was their content?

69. Mr. AGUILAR URBINA said he would like to have more precise information on the application of each article of the Covenant in Burundi and on the position which the Covenant occupied in the country's legal system. The Burundi delegation had indicated that the Covenant formed part of the national Constitution, but he wondered what percentage of the electorate, particularly in terms of the various ethnic groups, had actually approved the Constitution. He also wondered how the Government had made known the Charter of National Unity and the Constitution to the population, considering that only 36 per cent of adults were literate. He would like to know how far the rights proclaimed in the Covenant and the Constitution could be derogated from.

70. With regard to social and cultural organization in Burundi in general, he inquired about the role of the institution called Ubushingantahe which was referred to in paragraph 64 of the initial report (CCPR/C/68/Add.2) and about the meaning of the expression "devotion to truth at all costs". He wondered whether, in the process of trying to protect that institution, cases of extrajudicial executions or torture might not occur. He would also like to be informed of the results of any investigations into cases of torture, cruel treatment and extrajudicial executions which had been reported in the previous two years. Lastly, he asked what offences could give rise to the death penalty and whether that penalty had actually been carried out.

71. Mr. SADI said it was necessary to bear in mind that Burundi was a relatively young country from the standpoint of its political and social organization and that the process of building the Burundi nation had not yet been completed. It was to be hoped that the dialogue with the Committee would make a contribution, however modest, to strengthening national institutions. It was also to be hoped that the next periodic report of Burundi would be drawn up in accordance with the Committee's guidelines. It was not enough to affirm, for instance in connection with article 2, that "Burundi respects and ensures to all individuals ... the rights recognized in the International Covenant on Civil and Political Rights" or, in general, to give abstract information. The Committee wanted to have information specifically illustrating the way in which the Covenant's provisions were applied in practice in Burundi. He would like to have further details, particularly regarding the reports that some members of the royalist party had been imprisoned before the referendum on the Constitution and that, in 1991, following the insurrectional movement, thousands of opponents had been executed without trial. There had been reports of many cases of extrajudicial executions, disappearances and violence, particularly in November and December 1991, and it was essential for the Burundi delegation to provide detailed information on all those points.

72. Mr. PRADO VALLEJO said he also regretted the failure of the initial report and the core document to describe the difficulties which Burundi, like all other countries, had to surmount in practice to ensure respect for human rights. In particular, nothing was said about the right to habeas corpus, which was most fundamental. He wondered whether the new Government really intended to improve the human rights situation in the country by promulgating new laws, and in particular he would like to know whether the text of the Covenant had been published in French and in the other local languages so that the population could be informed of the rights which it was guaranteed.

73. The Burundi delegation might indicate whether it was true that, in March 1992, some members of opposition parties who had spoken out against the new Constitution had been arrested and persecuted in violation of the right to freedom of expression embodied in article 9 of the Covenant, on which he noted that no comment had been made either in the initial report or in the core document. In that connection, he wondered whether there were any political prisoners or prisoners of opinion in Burundi who had been arrested for opposing or criticizing the Government. He also asked whether it was planned to amend the Code of Penal Procedure so as to bring it into line with the provisions of the new Constitution and guarantee procedural regularity.

74. On the social level, Burundi seemed to have an ethnic majority and an ethnic minority which were in permanent conflict. What was the Government doing to prevent such conflicts and to investigate the numerous disappearances of civilians to which they gave rise? For instance, he would like to know whether the persons responsible for the murder of Isidore Ciiza's family had been arrested and punished and whether the thousands of opponents of the Government who are being held without trial would be or had already been released. He also wished to know whether the Government had conducted investigations into the reported cases of torture, as it was obliged to do, and, if so, what the results of those investigations had been. In particular, he asked whether it was true that the members of the security forces, who were

often responsible for the acts complained of, enjoyed impunity under the 1960 Act and whether that Act had been amended or was still in force. He also inquired about guarantees for the defence, which seemed far from adequate in Burundi's judicial system.

75. Mr. ANDO said that he, too, found it unfortunate that the report did not contain all essential information on the difficulties arising in Burundi with regard to the implementation of the provisions of the Covenant. He had no doubt that the long history of colonization in the country needed to be taken into account in evaluating the existing situation.

76. He would like to know, first of all, what was the status of the Covenant under the new Constitution and whether the Government had notified the Secretary-General of the emergency situation existing in the country, as it was required to do under article 4 of the Covenant. In connection with the independence of the judiciary, he would like some information on the system for training, appointing and dismissing judges. What guarantees were applicable under article 14 of the Covenant and, if the existence of the National Security Council had implications for the protection of citizens' rights, what steps had been taken to avoid any abuses by that body?

77. With regard to the equality of the sexes, he wished to know whether the Burundi Government was planning to ratify the Convention on the Elimination of All Forms of Discrimination against Women and would like to have details on the nationality of married women, the transmittal of nationality from parents to children, the property rights of the spouses in marriage, and custody of the children.

78. With regard to freedom of thought, conscience and religion, he asked how the Government guaranteed the exercise of the rights set forth in article 18 of the Covenant, bearing in mind the conflict existing between Church and State and, on the subject of freedom of expression, inquired whether the media were State-owned and whether journalists, both Burundians and foreigners, were free to express their opinions.

79. Lastly, the Burundi delegation should give further details regarding the implementation of article 57 of the Constitution, which prohibited political parties from identifying themselves with an ethnic group or religion and, in general, on the steps taken to resolve ethnic conflicts.

80. Mr. HERNDL noted, like other members of the Committee, that neither the initial report nor the core document submitted by the Burundi Government contained the details needed for an evaluation of the human rights situation and the implementation of the Covenant in Burundi. In his opinion, the paramount issue was the relationship between the former Constitution and the new one. In that connection, he noted the statement in paragraph 16 of the initial report (CCPR/C/68/Add.2) that the former Constitution "serves as a general principle of law today", which he found rather surprising given that it was no longer in force. He also asked to what extent the Covenant was directly applicable by the judicial and administrative authorities. He further requested clarifications on article 40 of the new Constitution, which

apparently meant that fundamental rights embodied in the Covenant, for instance the right to freedom of expression and freedom of movement, were not fully guaranteed.

81. With regard to the judicial system and the administration of justice in general, the initial report gave no information, while the core document briefly mentioned, in paragraph 54, the judicial system in force but gave no details on the independence of judges. With regard to the application of article 6 of the Covenant, it was merely stated in paragraph 11 of the initial report that "Every human being has the inherent right to life", but nothing was said about the measures taken to ensure respect for that right, a point on which the Committee might well pose questions considering the massacres and summary executions that had been reported recently. Similarly, in connection with article 9 of the Covenant, nothing was said about how a person who was arrested could have recourse to a judicial authority so that it could determine whether the arrest was lawful. Nor was anything said under article 14 about the independence of the judiciary. With regard to article 27, the principle of the protection of minorities was simply recognized as being fundamental to democracy, but no information was given, for instance, on laws guaranteeing the right of minorities to education in their own language and to the safeguarding of their culture and religion.

82. Mr. LALLAH said that, as he understood it, the new Constitution that had been promulgated on 13 March 1992 was now the country's fundamental law. Therefore, like Mr. Herndl, he wondered about the apparent maintenance in force of some sections of the former Constitution. He also noted that neither of the reports submitted gave details of the application of many articles of the Covenant. He would like to know, for instance, how the judiciary was organized and what measures were taken to guarantee the independence and irremovability of judges. True, articles 143 and 144 of the new Constitution stipulated that the judiciary was independent from the legislature and the executive and that the President of the Republic was the guarantor of the judiciary's independence, but the Committee should be informed of the specific measures taken to enforce those principles in practice.

83. With regard to elections to the office of President of the Republic, he noted a discrepancy between the provisions of article 66 and those of article 188 of the Constitution, where it was stated on the one hand that the candidate must not have belonged to any political party for at least one year previously and, on the other, that a candidate who had not belonged to any political party for at least the previous nine months was considered to be independent. Again, the provisions of article 56 of the Constitution seemed to mean that, to obtain authorization, political parties must include all sectors of the population among their membership, whereas article 57 prohibited political parties from identifying with a particular ethnic group. He wondered whether that was a contradiction or a form of hypocrisy. Lastly, he noted that no information was given on the procedures for appointing the Prime Minister and other Ministers, and requested detailed information on that point, as well as on the general functioning of political institutions in Burundi.

The public meeting rose at 6.15 p.m.